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File No. 5-14/49-A2

1834-49/A2
Collection No.

1949.

Govt. of India
Ministry of Education
(A-2)

Pros. / Serial Nos. 23

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Subject.

"Draft Constitution of India" ——

Amendments.

Previous References.	Later References.
F.3-45/47-Arch.	

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S. 97 (Unbleached).
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Ministry of Education
(A.2)

1834/49-A2

Amendments in the Draft Constitution of India.

The question of amendments in the Draft Constitution Assembly of India, so far as the Ministry of Education is concerned, was being dealt with on A.3 Sec. file. It is understood that that Section file is not readily available. We may now take up the question ourselves in respect of items with which we are concerned.

2. It has been informally ascertained from the Secretariate of the Constituent Assembly of India that the last date for the receipt of notices for adendments to the Draft Constitution was 11th November,1948. It is now for the Hon'ble the President of the Constitutent Assembly to admit notices for amendments given after that date. The notices are to be given to the Secretary, Constitutent Assembly who will submit them to the Hon'ble the President for orders. Only those amendments which will be admitted by the President will be allowed to be moved in the ensuing session of the Assembly. The amendments necessary are in respect of Anthropology and Archaeology.

Anthropology

With effect from Ist December,1945, Anthropology was separated from the Zoological Survey of India and constituted into a separate Department to be known as Anthropological Survey of India. It has since been renamed as the Department of Anthropology. Though Anthropology is a central subject it does not find a place in the Draft Constitution. Its name may now be included among other sister scientific departments and item 41 may therefore be amended to read as follows:

P/P.214

'The Survey of India, the Geological, Botanical and Zoological Surveys of India, the Department of Anthropology; Union Meteorological Organisations'

NATIONAL ARCHIVES OF INDIA

Archaeology

Archaeology at present is the exclusive responsibility of the Central Government. In the Government of India Act,1935, item 15 in the Seventh Schedule of List I of the Federal Legislative List, stands as follow:

'Ancient and historic monuments; archaeological sites and remains'.

In the Draft Constitution ~~the item~~ item 60 in the Seventh Schedule, List I-Union List-has been reworded as 'Ancient and historical monuments declared by parliament by law to be of national importance; archaeological sites and remains! The ~~undesirability~~ ~~therefore~~ of the introduction of ~~words~~ underlined ~~words~~ above has been fully discussed in the linked file. The declaration is likely to lead to confusion as the distinction between an ancient monument and archaeological site is often very difficult to draw. Moreover as Mr. Ashfaque Husain has pointed out in his note dated 28-vii-48, there is a further difficulty that it is a very long process to secure a declaration by parliament by law and it is, therefore, ~~not~~ possible that a monument may be irremediably spoilt before we can get the necessary legislation through. We may therefore give notice of the deletion of the words 'declared by Parliament by law to be of national importance'.

Two drafts are put up for approval which A.3 Section may see before submission to H.M.

29/4/49 A.S(f)

Lnishmanth. 29/4/45

G/p.391

P/p.215

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linked file/Notes p.27-28

I.2165/49-43

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(From prepage)

Seen in A.3 Section. 4/

30/4
U.S.(A).

Rau
30.4.47.

DS A
Secy.

As Sapru's letter has already been submitted to the Cabinet suggesting certain changes in the draft constitutional Bill including changes in items 41, 60 in List I - Union List.

after approval of the Cabinet, the ~~suggestions made~~ Chairman of the Drafting Committee will draft necessary amendments to place them before the Constituent Assembly with a view to giving effect to the recommendations.

Newspapers might be interpreted in the light below. No further action is at present required.

Rau
7.5.47

× Bme D 9/5

Am. Dey 9.5 A-2

Secy. 1-6-47
Secy 10/6
Secy 15-8-47
Secy 1-7-47
Secy 11/6/47
Secy applied

NATIONAL ARCHIVES OF INDIA

MINISTRY OF EDUCATION
A-2

The decision of the Cabinet on the proposals made in paras 6-7- of the notesubmitted to them on the 6th May 1948 has been received. It is presumed that further action will be taken by the Committee consisting of Dr. Ambedkar and Mr. Gopalaswami Ayyangar and then the amendment to the Constitution Bill forwarded to the Drafting Committee direct. A copy of the note has already been submitted to Secy by D.S.A. J.S. and Heads of Divisions may see for information first. Thereafter the file will be circulated to the Sections concerned.

Sd:- R.Lal
20.5.49.

Secy, J.S. and D.S.(D) have seen- D.E.A.(T) and D.E.A.(S) may please see.

Sd:- P.N.Kirpal
20.5.49.

Seen Thanks.

Sd:-
20-5-49.

It is unfortunate that Cabinet has not accepted our proposals at 1 & 2 of para 6 . I wonder if we should not press for these again.

It is a pity too that our proposal at (4) (e) of para 6 has also been rejected. Collection and dissamination of educational information is one of the main function of an Education Ministry at the contra.

Sd:- Johari
23.5.49.

P.N.Kirpal
Sd:-24.5.49.

D.S.A. may like to consult Secy in regard to any action on Mrs. Johari's note of the 23rd May 1949.

Sd:- R.Lal
24.5.49.

NATIONAL ARCHIVES OF INDIA

(6)

Office may please prepare a statement showing the functions of the Ministry of Education as follows:-

(1) Present functions (according to law and constitution)
(2) As proposed in Draft Constitution.
(3) As agreed to by the Cabinet.

I should like to have this note before 30th May, 1949.

Sd:- P.N.Kirpal
27.5.49.

(From Prepage)
(Reference D.S.(A)'s note on prepage)

A statement containing the requisite information is placed below at slip 'D'.

Sd:- R.Lal.
30-5-49.

NATIONAL ARCHIVES OF INDIA

Serial No. 8

The Secretariat of the Constituent Assembly of India have asked that we should furnish them by the 17th June 1949 with such further amendments and alterations as have not already been furnished to them so that the Drafting committee may, before making their final recommendations to the Constituent Assembly re-examined them in the light of the several amendments to the 7th Shedule of the Draft Constitution of which they have received notices. Our communiations to the Secretariat Constituent Assembly of India on the subject are at Serial No. 2 & 3.

We placed before the Cabinet our proposals regarding the amendments and alterations to the Draft Constitution. The decision of the Cabinet on the proposals is at Serial No- 7 It has been decided by the Cabinet that a Committee consisting of Dr. Ambedkar and Mr. N. Gopalaswami Ayyangar should draft such of proposed amendments as have been accepted by the the Cabinet and forward them to the Drafting Committee. It is presumed that further necessary action will be taken by the Committee themselves. A draft is submitted for approval.

J.S. may kindly see.

Sd:-P.N.Kirpal
14.6.49.

Please issue.

Sd:- P.N.Kirpal
14.6.49.

Serial No. (9) Issue

Resubmitted with reference to D.S.(A)'s note dated 27.5.49 on page 26 ante

Ten copies of the statement at flag 'D' may be prepared with the modifictation that reference to Draft Constitution , Govt. of India Act, 1935, is not necessary. This can be done by inserting items in full, not so necessary. I shall like to have these copies by 18th July .

Sd:- P.N.Kirpal
12.7.49.

NATIONAL ARCHIVES OF INDIA

91

I attended the meeting this morning. All our amendments except one relating to the Department of Archaeology and were agreed to by the meeting, though the Chairman, the Central and Adviser to Govt. of India pointed out that they would have to be considered first by the meeting of Provincial Premier and then by the Drafting Committee. +As desired by him, I am sending a copy of an amendments- as regard to by the Cabinet -to J.S. Constituent Assembly.

Sd:-
14.7.49.

Sd:- Tarachand
19th July

Sd:- P.N.Kirpal
20-7-49.

in Union List
The entry No.60/has been adopted by the C.A. with slight modifications which reads as follows:-

"60. Ancient and Historical Monuments and Records declared by Parliament by law to be of national importance."

A new entry No.34A is adopted in the Concurrent List which is as follows:-

"34A. Archaeological sites and remains".

U.S.(A) has seen these changes on a separate file and need not be troubled again. These papers may now be recorded.

D.S.A. has also been informed separately.

27.x.49

R (keep)

NATIONAL ARCHIVES OF INDIA

(9)

Secret.

JOINT EDUCATIONAL ADVISER TO THE
Govt. of India,
NEW DELHI, The 6th May, 1 9 4 9

My dear

I am sending you herewith a note from H.M. He desires that after H.P.M. has seen it, it may be circulated to members of the Cabinet so that it may be discussed at an early meeting of the Cabinet.

Yours sincerely,

(HUMAYUN KABIR)

SHRI DHARMA VIRA, ICS.,
Joint Secretary, Cabinet Secretariat,
New Delhi.

NATIONAL ARCHIVES OF INDIA

(10)

1. The Draft Constitution of India has divided the administrative subjects into three lists, namely, the Union, the State and the Concurrent List. According to the division proposed, the functions of the Education Ministry at the Centre will be limited to the following:-

(1) Cultural relations with foreign countries-(Item 10 in List 1.)

(2) United Nations Education, Scientific and and Cultural Organisation-(Item 12 in List I.)

(3) Participation in international conferences in the field of Education and Culture-(Item No.13 in List I.)

(4) The National Library, the Indian Museum, the Imperial War Museum, the Victorial Museum and any other Institution financed by the Govt. of India wholly or in part and declared by Parliament by Law to be an Institution of educational importance. (Item 39 in List I).

(5) Banaras Hindu University and Aligarh Muslim University (Item 40 in List I,)

(6) Copyright (Item 51 in List I.)

(7) Union Agencies and Institues devoted to research, professional or technical training or for the promotion of special studies. (Item 57 in List I).

(8) Ancient and historical monuments declared by Parliament by law to be of national importance, archaeological sites and remains.(Item 60 in List I).

NATIONAL ARCHIVES OF INDIA

2. It will be noted that educational planning or even inter-provincial collection, co-ordination and dessemination of educational information may under this arrangement cease to be the functions of the Central Government. This doubt is enhanced by the fact that item 56 in List I, Union List, mentions "Enquiries, surveys and statistics for the purpose of the Union" while item 64 of List II, State List, Specially assigns "Enquiries and Statistics in the field of education including Universities" to the States. List III, concurrent List, is silent on the point. In view of the specific entry in List II and the absence of any reference in List III, it is problematic whether the Central Government can make enquiries or survey or collect statistics in matters of education after the adoption of the Draft Constitution.

3. It is, however, obvious that Central initiative, planning and direction are more important in nation building activities such as education than perhaps in any other sphere of governmental action. To leave these activities to the States and Provinces alone may lead to the encouragement of fissiparous tendencies and disintegration of the unity of India. The immense problems of Basic Education and Adult Education can be succesfully tackled only if there is a national plan for the purpose. Central planning and direction is essential to avoid uneven or incompatible developments in different areas. Scientific and Technical Education, Research Institutions and University Education are also increasingly becoming the concern of the Central Government in all countries of the world. The cost of Scientific and Technical Education and the necessity of avoiding unnecessary duplication and expenditure have compelled such

NATIONAL ARCHIVES OF INDIA

(12)

developments in India as well. The Govt of India have, therefore, undertaken the entire responsibility for the development of several all-India institutions of which the most important is the Indian Institute of Science, Bangalore. The recent decision to further develop the Delhi Polytechnic and to start four Higher Technological Institutions in different zones as all- India institutions is also evidence of the same necessity. Conversion of any of these into Provincial institutions would not only restrict their service to people of other Provinces but it is also feared that it may lead to a lowering of standards and thus defeat the purpose for which they are being built up. Realisation of the importance of Central planning was the reason for the establishment of All-India Council of Technical Education, and the Central Advisory Board of Education in their Resolution advocating its establishment gave adequate reasons for its belief that Technical Education in the higher stages cannot, in modern conditions, be effectively organized on a Provincial basis. The All India Council of Technical Education has gone further and suggested that all Technical Education throughout the Union should be co-ordinated by the Government of India. The recommendations of the Scientific Manpower Committee also lead to the same result. Nor is this surprising. Scientific and Technical Education has to be related to the requirements of industry and it is obvious that plans for industrial development can be effective only if they are carried out on a nation-wide scale.

4. The dangers of dissociating the Centre from educational progress in the Provinces were clearly pointed out by the Hartog Committee as early as 1928. Even under the conditions which then obtained, the Committee recommended that "the Government of India could serve as a Centre of educational information for the whole of India and as a

NATIONAL ARCHIVES OF INDIA

(13)

Centre of educational information

means of co-ordinating educational experience of different provinces.". The Committee went further and recommended that the Government of India should have some responsibility for the attainment of Universal Primary Education. The Central Advisory Board of Education was revived in 1935 in pursurance of these recommendations.

5. More recently, the Bajpai Committee which went into the question of re-organisation of the Central Secretariat, reported that the new Federal Centre cannot be strong unless it is also vigorous in action. It expressed grave doubts about the possibility of any reduction in any fiedd of State activity "which would, in any significant measure, reduce the demand for trained manpower. Education, Health, Agriculture to name a few subjects which are consitutionally classed as 'Provincial' have ceased to be treated, in any progressive country possessing a federal constitution, as matters of purely provincial concern. They present many national problems which admit of a satisfactory solution only on the basis of an active parnership between the Federal and 'Provincial' or 'State' Governments. Any other conception of the relationship of the Centre and the Provinces in the new India would be retrograde."

6. In view of what has been stated above, it is necessary that the New Constitution of India must contain provisions which would allow the Centre to play an effective part in the educational development of the country-The following amendments would be necessary for the purpose:-

(1) A proviso should be added to sub-clause (ii) of Clause 93 in order to earmark a fixed percentage of the total budget estimates of the Union Government for expenditure on education, science and culture. In an amendment of which I gave notice in my personal capacity, I suggested

NATIONAL ARCHIVES OF INDIA

(14)

that this figure should be 15% of the total Central Budget.

(2) A similar proviso should be added to sub-clause (ii) of Clause 178 to earmark a percentage of the budget estimates of the State Governments for purposes of expenditure on education, science and culture. I had suggested that in this case the figure should be 25% of the total budget estimates.

(3) A proviso should be added to Clause 233 that all public and private educational, scientific and cultural organisations in the Union shall be subject to general supervison by the Union Government in accordance with law-.

(4) In List I, Union List, the following additions or amendments should be made:-

(a) In Item 39, (i) the "Indian War Memorial Museum" which is the concern of the Ministey of Education, should be added to the existing list; and (ii) the words "by Government of India" to be substituted for the words,"by Parliament by law". This amendment is necessary as legislations would require a long period and quick action may at times be necessary. Besides, in a democratic States the Government would depend on the suffrge of the Parliament, and on the other hand, Parliament would normally pass any legislation initiated by the Goverhment of the day.

(b) In Item 40, the name of the Delhi University has been left out,perhaps

NATIONAL ARCHIVES OF INDIA

(15)

through inavertence. This should be included and in order to enable the Union Government to bring under its direct supervision any other University which may be demanded in public interest, there should be a phrase to the effect "and any other University declared by the Government of India to be an institution of national importance; It may be pointed out that the Viswa Bharati University, founded by Rabindranath Tagore has already approached the Central Government with a request that it should be accepted as a Central University and necessary legislation enacted for the purpose.

(c) A new item "Institutions of scientific, technical or general education which on the 15th of August, 1949, were administered by the Govt. of India or recognised by the Goverbment of India as All India Institutions of national importance and any other insitution declared as such by the Government of India" be inserted as Item 40-A.

(d) In Item 41, the "Department of Anthropology" should be added to the existing list, as in December, 1941, Anthropology was separated from the Zoological Survey of India and a new Department known as the Anthropological Department created.

(e) A new item "the collection and dissemination of educational information" should be added as a new item 56 A in order to define the functions and powers of the Union Government in these respects.

(f) A new item 57 A should be inserted to give the Union Government the right of supervision of public and private educational scientific and

NATIONAL ARCHIVES OF INDIA

and cultural organisations situated within the territories of the Union. Insertion of this item would be necessary to give effect to the amendment proposed above to Clause 233.

(g) A new item "Co-ordination of educational and cultural activities " should be inserted as 57 B in order to enable the Union Government to exercise necessary functions for the purpose It may be added that this fucntion is now exercised by the Federal or Central Government in all important States including such Federal States as allow residuary powers to the Federating Units. Item 57 of List I would not be adequate for the purpose.

(h) In item 60,(i) the words "The Department of Archaeology as it existed on the 15th of August, 1949, and "be inserted at the beginning and (ii) the words "declared by Parliament by law to be of national importance" be substituted by the words "declared by Government of India to be of national importance". At present, Archaeology is exclusively the responsibility of the Central Government. The introduction of the phrase referred to above would restrict Central jurisdiction only to certain ancient historical monuments and leave others outside its purview. Besides, as declaration by Parliament by law involves a long process, the retention of this phrase may create a situation where a monument may be irremediably injured ~~above~~ before necessary legislation to declare the monuments concerned as of national importance can be passed.

(i) A new item "Protection and preservation of such

NATIONAL ARCHIVES OF INDIA

records, books or other documents of historical or cultural value as are declared by Government of India to be of national importance", should be inserted as item 60-A in the List in order to give the Union Government necessary powers in the matter.

7. In List III, the Cocurrent List, the following new items should be added:-

(a) In item 24, the word and comma "Educational", should be added before the words "economic and social planning.".

(b) "Promotion of higher education and research in scientific, technical and general sub-jects" should be included as new item 38.

Approval of the Cabinet is sought to the amendments suggested in paragraphs 6 and 7 above. After the Cabinet have considered, the suggestions, the Chairman of the Drafting Committee may be requested to draft amendments and place them before the Constituent Assembly with a view to giving effect to these recommendations.

Sd/- A.K.Azad.

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Sl. No. 2

10

SECRET

MEETING OF THE CABINET HELD ON
THURSDAY, THE 12TH MAY, 1949
At 9 A.M.

Case No. 135/22/49

Functions of the Central Government in regard to Education Proposed amendments of the Draft Constitution.

******

The Cabinet came to the following decisions regarding the proposals contained in paragraphs 6 and 7 of the note pp-11-16 ante by the Ministry of Education.

1. Paragraph 6

(1) and (2)- Not accepted.

(3) Instead of the proposal made by the Ministry of Education, there should be provision for general supervision by the Central Government of higher educational, scientific and technical institutions for the purpose of co-ordination and maintenance of standards. Additions to this effect should be made in the Draft Constitution at the appropriate place.

(4) (a) In Item 39(i) the addition of the "Indian War Memorial Museum" was accepted; but (ii) the Cabinet was of the view that the words "by Parliament by law" should be retained.

(4) (b) The Cabinet agreed that in Item 40 the name of the Delhi University should be added. But for the purpose of enabling the Central Government to bring under its direct supervision any other University the provision should read as "and any other University declared by the Government of India with the approval of Parliament to be an institution of national importance".

NATIONAL ARCHIVES OF INDIA

(c) Agreed.

(d) Agreed.

(e) Not necessary.

(f) and (g) Already covered by the decision on item (3) above.

(h) Agreed.

(i) Agreed.

2. Paragraph 7

(a) Agreed.

(b) Agreed but omit the words " and General" and insert "and" between the words "Scientific" and "technical".

The above suggestions should be suitably worded by a Cmooittee consisting of Dr. Ambedkar and Mr. N.Gopalaswami Ayyangar and then should be forwarded to the Drafting Committee

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NATIONAL ARCHIVES OF INDIA

Sl. No. 3

No. CA/4/Cons./49
CONSTITUENT ASSEMBLY OF INDIA

Council House,
New Delhi.
June 12,1949.

IMMEDIATE

To

The Secretary to the Government of India,
Ministry of Education,
New Delhi.

Dear Sir,

Before making their final recommendations to the Constituent Assembly regarding the three Legislative Lists contained in the Seventh Schedule to the Draft Constitution of India, the Drafting Committee propose to re-examine them in the light of the several amendments to the said Lists of which notices have been received. The Committee, however, would like to know whether you have any further suggestions for amendments or alterations in these Lists since your Ministry wrote to this Secretariat last on the subject. As it is proposed that the Committee should meet very sson to consider this subject, I am desired to request that any suggestion that your Ministry may dwsire to make in this connection should be sent so as to reach this Secretariat not later than Friday, the 17th June, 1949.

Yours truly,

Sd:- S.N. Mukerjee)
Joint Secretary.

NATIONAL ARCHIVES OF INDIA

(2) Sl. No. 4 13

MINISTRY OF EDUCATION.

No. F.13-1/48-A.3

To

The Secretary,
Constituent Assembly of India,
New Delhi.

Sir,

I am directed to refer to your letter No . C.A./4/Cons/49 dated the 12th June 1949 regarding proposals for amendments to the 7th Schedule to the Draft Constitution of India and to say that all the proposals of this Ministry regarding amendments to the Draft Constitution have been considered by the Cabinet who have decided that a Committee consisting of the Hon'ble Dr. Ambedkar and the Hon'ble Shri N.Gopalaswami Ayyanger should suitably word such of the proposed amendments as have been accepted by the Cabinet and forward them to the Drafting Committee.

Yours faithfully,

Sd:- P.N.Kirpal
Deputy Secretary (A).

NATIONAL ARCHIVES OF INDIA

(22) Sl. No. 5 14

NEW DELHI, dated the 14th July 1949.

My dear

We had submitted to the Cabinet for their approval certain amendments that were proposed by us in the Constitution. I am sending you a copy of the proposals which were approved by the Cabinet with the comment that "The above suggestions should be suitably worded by a Committee consisting of Dr. Ambedkar and Mr. N.Gopalaswami Ayyangar and then should be forwarded to the Drafting Committee". It was on account of this directive from the Cabinet that we did not send the amendments to you earlier as we thought that the Cabinet Secretariat would take necessary action on them.

Yours sincerely,

(HUMAYUN KABIR)

Shr. S.N. Mukerjee,
Joint Secretary,
Constituent Assembly of India,
Council House, New Delhi

NATIONAL ARCHIVES OF INDIA

FUNCTIONS OF THE MINISTRY OF EDUCATION AT THE CENTRE

Present functions of the Ministry according to Law and Constitution. (1)	As proposed in the Draft Constitution. (2)	Changes in the Draft Constitution suggested by the Ministry (3)	Changes agreed to by the Cabinet. (4)
		In item 41 of List I, the Anthropological Survey should be atted to the existing list.	Agreed
7. Ancient and historical monuments; Archaeological sites and remains.	Ancient and historical monuments declared by Parliament by law to be of national importance; Archaeological sites and remains (Item No. 60 in List I).	In Item 60 (i) the words "The Deptt. of Archaeology as it existed on 15-8-49, and "be inserted at the beginning , and (ii) the words "Declared by Parliament by law to be of national importance" be substituted by the words "declared by the Govt. of India to be of national importance".	Agreed.
8. -	-	A new item "Protection and preservation of such records , books or other documents of historical or cultural value as are declared by the Govt. of India to be of national importance should be inserted as item 69-A in List I)-	Agreed.

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Ministry of Education
(A.2)
Amendments in the Draft Constitution of India.
I
JA-12/21-3
Plp-14
The question of amendments in the Draft Constitution

Assembly of India, so far as the Ministry of Education is concerned, was being dealt with on A.3 Sec. file. It is understood that that Section file is not readily available. We may now take up the question ourselves in respect of items with which we are concerned.

2.

It has been informally ascertained from the Secretariate of the Constituent Assembly of India that the last date for the receipt of notices for adendments to the Draft Constitution was 11th November, 1948. It is now for the Hon'ble the President of the Constitutent Assembly to admit notices for amendments given after that date. The notices are to be given to the Secretary, Constitutent Assembly who will submit them to the Hon'ble the President for orders. Only those amendments which will be admitted by the President will be allowed to be moved in the ensuing session of the Assembly. The amendments necessary are in respect of Anthropology and Archaeology.

Anthropology

With effect from Ist December, 1945, Anthropology was separated from the Zoological Survey of India and constituted into a separate Department to be known as Anthropological Survey of India. It has since been renamed as the Department of Anthropology. Though Anthropology is a central subject it does not find a place in the Draft Constitution. Its name may now be included among other list 1 of the Union list Schedule

sister scientific departments and item 41 may therefore be amended to read as follows:

The Survey of India, the Geological, Botanical and Zoological Surveys of India, the Department of Anthropology; Union Meteological Organisations'

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Archaeology

Archaeology at present is the exclusive responsibility of the Central Government. In the Government of India Act, 1935, item 15 in the Seventh Schedule of List I of the Federal Legislative List, stands as follow:
'Ancient and historic monuments; archaeological sites and remains'.
words
In the Draft Constitution then item, item 60 in the Seventh Schedule, List I-Union List-has been reworded as 'Ancient and historical monuments declared by parliament by law to be of national importance; archaeological sites and remains! The undestemity of the introduction of underlined words, above has been fully discussed in the linked file. The declaration is likely to lead to confusion as the distinction between an ancient monument and archaeological site is often very difficult to draw. Moreover as Mr. Ashfaque Hussain has pointed out in his note dated 28-vii-48, there is a further difficulty that it is a very long process to secure a declaration by parliament by law and it is, therefore, not possible that a monument may be irremediably spoilt before we can get the necessary legislation through. therefore give notice of the deletion of the words 'declared by Parliament by law to be of tinational importance'.
We may
Two drafts are put up for approval which A.3
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MINISTRY OF EDUCATION
A-2
The decision of the Cabinet on the proposals made in
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has been received. It is presumed that further action will
be taken by the Committee consisting of Dr. Ambedkar and Mr.
Gopalaswami Ayyangar and then the amendment to the Constitution

Bill forwarded to the Drafting Committee direct. A copy of the note has already been submitted to Secy by D.S.A. J.S. and Heads of Divisions may see for information first. Thereafter the file will be circulated to the Sections concerned.
Sd:- R. Lal
20.5.49.
Secy, J.S. and D.S.(D) have seen- D.E.A. (T) and D.E. A. (S) may please see.
Seen Thanks.
Sd:-
Sd: P. N. Kirpal
20.5.49.
It is unfortunate
20-5-49.
that Cabinet has not accepted our
proposals at 1 & 2 of para 6. I wonder if we should not press for these again.
It is a pity too that our proposal at (4) (e) of para 6 has also been rejected. Collection and dissamination of educational information is one of the main function of an Education Ministry at the contra.
on Mrs.
Sd: Johari
23.5.49.
P. N. Kirpal
Sd:-24.5.49.
D. S. A. may like to consult Secy in regard to any action Johari's note of the 23rd May 1949.
Sd:- R.Lal
24.5.49.

Office may please prepare a statement showing the functions of the Ministry of Education as follows:-
(1) Present functions (according to law and constitution)
(2) As proposed in Draft Constitution.
(3) As agreed to by the Cabinet.
I should like to have this note before 30th May, 1949.

(From Prepage)
Sd:- P. N. Kirpal
27.5.49.
(Reference D.S. (A)'s note on prepage)
A statement containing the requisite information is placed below at slip 'D'.
Sd: R. Lal.
30-5-49.

6
Serial No. 8
-2-
-Corp. 12
сотра
The Secretariat of the Constituent Assembly of India have asked that we should furnish them by the 17th June 1949 with such further amendments and alterations as have not already been fur ished to them so that the Drafting committee may, before making their final recommendations to the Constituent Assembly re-examined them in the light of the several amendments to the 7th Shedule of the Draft Constitution of which they have received notices. Our communiations to the Secretariat Constituent Assembly of India on the subject are at Serial No. 2 & 3.
We placed before the Cabinet our proposals regarding the amendments and alterations to the Draft Constitution. The decision of the Cabinet on the proposals is at Serial No- 7 It has been decided by the Cabinet that a Committee consisting of Dr. Ambedkar and Mr. N. Gopalaswami Ayyangar should draft such of proposed amendments as have been accepted by the the Cabinet and forward them to the Drafting Committee. It is presumed that further necessary action will be taken by the Committee themselves.
A draft is submitted for approval.
J.S. may kindly see.
Sd:-P.N. Kirpal
14.6.49.
Please issue.
Sd: P. N. Kirpal

14.6.49.
Serial No. (9) Issue
Resubmitted with reference to D. S. (A)'s note dated 27.5.49
on page 26 ante
Ten copies of the statement at flag 'D' may be prepared
with the modifictation that reference to Draft Constitution
Govt. of India Act, 1935, is not necessary. This can be done by
inserting items in full, not so necessary. I shall like to have
these copies by 18th July
Sd: P. N. Kirpal
12.7.49.
e

Page - 8
901
I attended the meeting this morning. All our amendments
except one relating to the Department of Archaeology and were
agreed to by the meeting, though the Chairman, the Central and
Adviser to Govt. of India pointed out that they hould have to
be considered first by the meeting of Provincial Premier and
then by the Drafting Committee. +As desired by him, I am sending
a copy of an amendments- as regard to by the Cabinet -to J.S.
Constituent Assembly.
Sd:-
14.7.49.
Sd:- Tara chand
19th July
Sd: P. N. Kirpal
20-7-49.
in Union List
The entry No.60/has been adopted by the C.A. with
slight modifications which reads as follows:-
"60. Ancient and Historical Monuments and Records
declared by Parliament by law to be of national importance."
A new entry No.34A is adopted in the Concurrent List which is
as follows:-
"34A.
Archaeological sites and remains".

U.S. (A) has seen these changes on a separate file and need not
D.E.A has also been informed separater
be troubled again. These papers may now be recorded.
人
2
26/10/49
Justo to.
tw
Andy
27x.49
filluder
R(map)
D

Page - 9
Second
JOINT EDUCATIONAL ADVISER TO THE
Govt. of India,
NEW DELHI, The 6th May, 1949
My dear
I am sending you herewith a note from H.M.
He desires that after H.P.M. has seen it, it may be
circulated to members of the Cabinet so that it may
be discussed at an early meeting of the Cabinet.
Yours sincerely,
(HUMAYUN KABIR)
SHRI DHARMA VIRA,ICS.,
Joint Secretary, Cabinet Secretariat,
New Delhi.

Page - 10
1.
The Draft Constitution of India has divided the
administrative subjects into three lists, namely, the
Union, the State and the Concurrent List. According
to the division proposed, the functions of the Education
Ministry at the Centre will be limited to the following:

(1) Cultural relations with foreign countries-(Item 10 in List 1.)
(2) United Nations Education, Scientific and and Cultural Organisation-(Item 12 in List I.)
(3) Participation in international conferences in the field of Education and Culture-(Item No.13 in List I.)
(4) The National Library, the Indian Museum, the Imperial War Museum, the Victorial Museum and any other Institution financed by the Govt. of India wholly or in part and declared by Parliament by Law to be an Institution of educational importance. (Item 39 in List I).
(5) Banaras Hindu University and Aligarh Muslim University (Item 40 in List I,)
(6) Copyright (Item 51 in List I.)
(7) Union Agencies and Institues devoted to research, professional or technical training or for the promotion of special studies. (Item 57 in List I).
(8) Ancient and historical monuments declared by Parliament by law to be of national importance, archaeological sites and remains.(Item 60 in List I).

2.
-2->
It will be noted that educational planning or even inter-provincial collection, co-ordination and dessemination of educational information may under this arrangement cease to be the functions of the Central Government. This doubt is enhanced by the fact that item 56 in List I, Union List, mentions "Enquiries, surveys and statistics for the purpose of the Union" while item 64 of List II, State List,

Specially assigns "Enquiries and Statistics in the field of education including Universities" to the States. List III, concurrent List, is silent on the point. In view of the specific entry in List II and the absence of any reference in List III, it is problematic whether the Central Government can make enquiries or survey or collect statistics in matters of education after the adoption of the Draft Constitution.

3.

It is, however, obvious that Central initia tive, planning and direction are more important in nation building activities such as education than perhaps in any other sphere of governmental action. To leave these activities to the States and Provinces alone may lead to the encouragement of fissiparous tendencies and disintegration of the unity of India. The immense problems of Basic Education and Adult Education can be succesfully tackled only if there is a national plan for the purpose. Central planning and direction is essential to avoid uneven or incompatible developments in different areas. Scientific and Technical Education, Research Institutions and University Education are also increasingly becoming the concern of the Central Government in all countries of the world. The cost of Scientific and Technical Education and the necessity of avoiding unnecessary duplication and expenditure have compelled such

developments in India as well. The Govt of India have, therefore, undertaken the entire responsibility for the development of several all-India institutions of which the most important is the Indian Institute of Science, Bangalore. The recent decision to further develop the Delhi Polytechnic and to start four Higher Technological Institutions in different zones as all- India institutions

is also evidence of the same necessity. Conversion of any of these into Provincial institutions would not only restrict their service to people of other Provinces but it is also feared that it may lead to a lowering of standards and thus defeat the purpose for which they are being built up. Realisation of the importance of Central planning was the reason for the establishment of All-India Council of Technical Education, and the Central Advisory Board of Education in their Resolution advocating its establishment gave adequate reasons for its belief that Technical Education in the higher stages cannot, in modern conditions, be effectively organized on a Provincial basis. The All India Council of Technical Education has gone further and suggested that all Technical Education throughout the Union should be co-ordinated by the Government of India. The recommendations of the Scientific Manpower Committee also lead to the same result. Nor is this surprising. Scientific and Technical Education has to be related to the requirements of industry and it is obvious that plans for industrial development can be effective only if they are carried out on a nation-wide scale.

4.

The dangers of dissociating the Centre from educational progress in the Provinces were clearly pointed out by the Hartog Committee as early as 1928. Even under the conditions which they obtained, the Committee recommended that "the Government of India could serve as a Centrem of educational information for the whole of India and as a

Cons of water tonal
sonal info tion
means of co-ordinating educational experience of different provinces.". The Committee went further and recommended that the Government of India should have some responsibility for the attainment of Universal Primary Education. The Central

Advisory Board of Education was revived in 1935 in pursurance of these recommendations.

5.

More recently, the Bajpai Committee which went into the question of re-organisation of the Central Secretariat, reported that the new Federal Centre cannot be strong unless it is also igorous in action. It expressed grave doubts about the possibility of any reduction in any field of State activity "which would, in any significant measure, reduce the demand for trained manpower. Education, Health, Agriculture to name a few subjects which are consitutionally classed as 'Provincial have ceased to be treated, in any progressive country possessing a federal constitution, as matters of purely provincial concern. They present many national problems which admit of a satisfactory solution only on the basis off an active parnership between the Federal and 'Provincial' or 'State Governments. Any other conception of the relationship of the Centre and the Provinces in the new India would be retrograde."

6.

In view of what has been stated above, it is necessary that the New Constitution of India must contain provisions which would allow the Centre to play an effective part in the educational development of the country-The following amendments would be necessary for the purpose:-

(1) A proviso should be added to sub-clause (11) of Clause 93 in order to earmark a fixed percentage of the total budget estimates of the Union Government for expenditure on education, science and culture. In an amendment of which I gave notice in my personal capacity, I suggested

that this figure should be 15% of the total Central Budget.

(2) A similar proviso should be added to sub-

clause (11) of Clause 178 to earmark a percentage of the budget estimates of the State Governments for purposes of expenditure on education, science and culture. I had suggested that in this case the figure should be 25% of the total budget estimates.

(3) A proviso should be added to Clause 233 that all public and private educational, scientific and cultural organisations in the Union shall be subject to general supervison by the Union Government in accordance with law-.

(4) In List I, Union List, the following additions or amendments should be made:-

(a) In Item 39, (1) the "Indian War Memorial Museum" which is the concern of the Ministey of Education, should be added to the existing list; and (11) the words "by Government of India" to be substituted for the words, "by Parliament by law". This amendment is necessary as legislations would require a long period and quick action may at times be necessary Besides, in a democratic States the Government would depend on the suffrge of the Parliament, and on the other hand, Parliament would normally pass any legislation initiated by the Government of the day.

(b) In Item 40, the name of the Delhi University has been left out, perhaps

through inavertence. This should be included and in order to enable the Union Government to bring under its direct supervision any other University which may be demanded in public interest, there should be a phrase to

the effect "and any other University declared by the Government of India to be an institution of national importance; It may be pointed out that the Viswa Bharati University, founded by Rabindranath Tagore has already approached the Central Government with a request that it should be accepted as a Central University and necessary legislation enacted for the purpose.

(c) A new item "Institutions of seientific, technical or general education which on the 15th of August, 1949, were administered by the Govt. of India or recognised by the Goverbment of Indi as All India Institutions of national importance and any other insitution declared as such by the Government of India" be inserted as Item 40-A.

(d) In Item 41, the "Department of Anthropology" should be added to the existing list, as in December, 1941, Anthropology was separated from the Zoological Survey of India and a new Department known as the Anthropological Department created.

(6)

A new item "the collection and dissemination of educational information should be added As a new item 56 A in order to define the functions and powers of the Union Government in these respects.

(f) A new item 57 A should be inserted to give the Union Government the right of supervision of public and private educational scientific and

and cultural organisations situated within the territories of the Union. Insertion of this

item would be necessary to give effect to the amendment proposed above to Clause 233.

(g) A new item "Co-ordination of educational and cultural activities " should be inserted as 57 B in order to enable the Union Government to exercise necessary functions for the purpose It may be added that this fucntion is new exercised by the Federal or Central Government in all important States including such Federal States as ällow residuary powers to the Federating Units. Item 57 of List I would not be adequate for the purpose.

(h) In item 60, (1) the words "The Department of Archaeology as it existed on the 15th of August, 1049, and "be inserted at the beginning and (11) the words "declared by Parliament by law to be of national importance" be substituted by the words "declared by Government of India to be of national importance". At present, Archaeology is exclusively the responsibility of the Central Government. The introduction of the phrase referred to above would restrict Contral jurisdiction only to certain ancient historical monuments and leave others outside its purview. Besides, as declaration by Parliament by law involves a long process, the retention of this phrase may create a situation where a monument may be irremediably injured above before necessary legislation to declare the monuments concerned as of national importance can be passed.

(1) A new item "Protection and preservation of such

records, books or other documents of historical or cultural value as are declared by Government of India to be of national

importance", should be inserted as item 60-A in the List in order to give the Union Government necessary powers in the matter.

7. In List III, the Cocurrent List, the following new items should be added:-

(a) In item 34, the word and comma "Education-al", should be added before the words "economic and social planning.".

(b) "Promotion of higher education and research in scientific, technical and general sub-jeeta" should be included as new item 38.

Approval of the Cabinet is sought to the amendments suggested in paragraphs 6 and 7 above. After the Cabinet have considered, the suggestions, the Chairman of the Drafting Committeegmay be requested to draft amendments and place them before the Constituent Assembly with a view to giving effect to these recommendations.

Sd/- A.K.Azad.

SECRET

Sl. No.2

Case No. 135/22/49

MEETING OF THE CABINET HELD ON THURSDAY, THE 12TH MAY, 1949

At 9 A.M.

Functions of the Central Government in regard to Education Proposed amendments of the Draft Constitution.

******

The Cabinet came to the following decisions regarding the proposals contained in paragraphs 6 and 7 of the note pp-11-16 ante by the Ministry of Education.

1. Paragraph 6

(1) and (2)-

(3)

(4) (a)
(4) (b)
Not accepted.
Instead of the proposal made by the Ministry of Education, there should be provision for general supervision by the Central Government of higher educational, scientific and technical institutions for the purpose of co-ordination and maintenance of standards, Additions to this effect should be made in the Draft Constitution at the appropriate place.
In Item 39(1) the addition of the "Indian War Memorial Museum" was accepted; but (11) the Cabinet was of the view that the words "by Parliament by law" should be retained.
The Cabinet agreed that in Item 40 the name of the Delhi University should be added. But for the purpose of enabling the Central Government to bring under its direct supervision any other University the provision should read as "and any other University declared by the Government of India with the approval of Parliament to be an institution of national importance".

(c)
Agreed.
(a)
(e)
9
Agreed.
Not necessary.
(f) and (g) Already covered by the decision on
(h)
item (3) above.
Agreed.
(1)

Agreed.
2. Paragraph
7
(a)
(b)
Agreed.
Agreed but omit the words " and General"
and insert "and" between the words
"Scientific" and "technical".
The above suggestions should be suitably worded by
a Cmooittee consisting of Dr. Ambedkar and Mr. N.Gopalaswami
Ayyangar and then should be forwarded to the Drafting Committee
****

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MMEDIATE
To
Sl. No. 3
12
No. CA/4/Cons./49
CONSTITUENT ASSEMBLY OF INDIA
Council House,
New Delhi.
June 12,1949.
The Secretary to the Government of India,
Ministry of Education,
New Delhi.
Dear Sir,
Before making their final recommendations to the
Constituent Assembly regarding the three Legislative Lists
contained in the Seventh Schedule to the Draft Constitution
of India, the Drafting Committee propose to re-examine them
in the light of the several amendments to the said Lists of
which notices have been received. The Committee, however,
would like to know whether you have any further suggestions
for amendments or alterations in these Lists since your
Ministry woote to this Secretariat last on the subject.
As it is proposed that the Committee should meet very sson

to consider this subject, I am desired to request that any suggestion that your Ministry may dwsire to make in this connection should be sent so as to reach this Secretariat T not later than Friday, the 17th June, 1949.
Yours truly,
Sd:- S.N. Mukerjee)
Joint Secretary.

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To
Sl. No.4
13
MINISTRY OF EDUCATION.
No. F.13-1/48-A.3
The Secretary,
Constituent Assembly of India,
New Delhi.
Sir,
I am directed to refer to your letter No C.A./ 4/Cons/49 dated the 12th June 1949 regarding proposals for amendments to the 7th Schedule to the Draft Constitution of India and to say that all the proposals of this Ministry regarding amendments to the Draft Constitution have been considered by the Cabinet who have decided that a Committee consisting of the Hon'ble Dr. Ambedkar and the Hon'ble Shri N.Gopalaswami Ayyanger should suitably word such of the proposed amendments as have been accepted by the Cabinet and forward them to the Drafting Committee.
Yours faithfully,
Sd:- P.N.Kirpal
Deputy Secretary (A).

Page - 22
Sl. No.5
SP
NEW DELHI, dated the 14th July 1949.
14

My dear
We had submitted to the Gabinet for their approval
certain amendments that were proposed by us in the
Constitution. I am sending you a copy of the proposals
which were approved by the Cabinet with the comment the t
"The above suggestions should be suitably worded by a
Committee consisting of Dr. Ambedkar and Mr. N.Gopalaswami
Ayyangar and then should be forwarded to the Drafting
Committee". It was on account of this directive from
the Cabinet that we did not send the amendments to you
earlier as we thought that the Cabinet Secretariat would
take necessary action on them.
Shr. S.N. Mukerjee,
Joint Secretary,
Constitution Assembly of India,
Council House, New Delhi
Yours sincerely,
(HUMAYUN KABIR)

23
FUNCTIONS OF THE MINISTRY OF EDUCATION AT THE CENTRE

Present functions of the Ministry according to Law and Constitution.	(1)	(2)
7. Ancient and historical monuments; Archaeological sites and remains.	8. As proposed in the Draft Const+- tution.	Changes in the Draft Constitution suggested by the Ministry
Pogical Ancient and historical monuments declared by Parliament by law to be of national importance; Arch-		

aeological sites and remains (Item No. 60 in List I).

(30

Changes agreed to by the Cabinet.

(4)

Agreed

In item 41 of List I, the Anthro-

Survey should be atted to the existing

In Item 60 (1) the words "The Deptt. of Archaeology as it existed on 15-8-40, and "be inserted at the beginning, and (ii) the words "Declared by Parliament by law to be of national importance" be substitued by the words "declared by the Govt. of India to be of national importance".

ds

A new item "Protection and preservation of such recor-

books or other documents of historical or cultural value as are declared by the Govt. of India to be of national importance should be inserted as item 69-A in List I)-

Agreed.

Agreed.

METADATA

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